



South Florida Water Management District

GOVERNING BOARD MEETING MINUTES

March 12, 2009

9:00 AM

John Boy Auditorium
1200 South WC Owens Ave
Clewiston, FL 33440

Members Present:

Eric Buermann, Chair

Shannon Estenoz

Patrick Rooney

Michael Collins

Melissa Meeker

Charles Dauray

Jerry Montgomery

Members Absent:

Paul C. Huck Jr.

1. Call to Order - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 9:05 am.

2. Pledge of Allegiance - Eric Buermann, Chairman, Governing Board

Shannon Estenoz led the group in the Pledge of Allegiance.

Alexa Mickler, Clewiston Christian School, thanked the Board for visiting Clewiston and said the Board's actions regarding the USSC deal will impact the Glades community.

Jonathan Hatton, Clewiston Christian School, commented on continuing in his father's footsteps of raising sugar cane in Clewiston.

3. Employee Recognition - Carol Wehle, Executive Director

Carol Wehle, Executive Director, presented Lloyd Brown, Clewiston Field Station, the Good Samaritan award.

4. Agenda Addendum - Annette Carter, Director, Governing Board and Executive Services

Annette Carter, Director, Governing Board and Executive Services, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. Based upon that authority, the Chairman has determined that good cause exists to make certain changes to the Agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed. These changes have been listed in the Governing Board Addendum available at the entrance to this meeting room.

Ms. Carter announced a proclamation declaring April 5-11, 2009, as Contract Management Week at the South Florida Water Management District has been added to the Consent Agenda.

5. Abstentions by Board Members from items on the Agenda

Mr. Rooney abstained from Discussion Agenda Item 49.

6. Water Resource Advisory Commission (WRAC) Report - Michael Collins, Chair

Mr. Collins provided the monthly report on the Water Resource Advisory Commission meeting which was held on March 5, 2009.

59. South Florida Water Management District's 60th Anniversary: Focus on the 1950's - George Horne, Deputy Executive Director, Operations & Maintenance

George Horne, Deputy Executive Director, Operations & Maintenance, continued the 60th anniversary of the District with a presentation focused on the 1950's.

60. Ambassador Award - Presented by Carol Wehle, Executive Director, to Margaret England

Ms. Wehle presented the Ambassador Award to Margaret England, a resident of LaBelle, Florida.

Consent Agenda

7. Public Comment on Consent Agenda

There was no public comment on the Consent Agenda.

8. Pull Items for Discussion from Consent Agenda

Ms. Estenoz pulled Consent Agenda Items 18 and 19 for discussion.

9. Board Comment on Consent Agenda

There was no Board comment on the Consent Agenda.

Regulatory Matters

10. Water Use Permit Applications

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Denials

Environmental Resource Permit Extensions

Consent Agreements

Conservation Easements

Seminole Tribe Work Plans

Page 9 No 2 Grand Cypress Resort (WU): **Postponed** to April Board

Page 10 No 1 6 Mile Bend Farm (WU): **Postponed** to May Board

Page 10 No 2 Hooker Jones Farm 3 (WU): **Postponed** to May Board

Page 14 No 1 US Citizen and Immigration Building Services (WU): **Withdrawn**

Page 15 No 1 Hutchinson Island Condominiums Marina (ERP Denial): **Withdrawn**

11. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Page 6 No 1 Canal Investments, Inc. (ROW Occupancy Permit Request with Waiver of District Criteria): **Deleted**

Water Resources

12. Enter Final Orders Denying Applications for Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Dean Powell, ext. 6787)

13. Enter Final Orders Concurring with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Dean Powell, ext. 6787)

14. **2009-300** A Resolution of the Governing Board of the South Florida Water Management District to authorize the official ranking of short-listed firms and entering into a 4-year contract with the Florida International University, subject to successful negotiations, for monitoring of multiple parameters along transects in the Everglades that cross various types of habitat, in an amount not to exceed \$900,439, for which \$191,500 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10-FY13 budgets; providing that, if negotiations are unsuccessful with the Florida International University, the District will proceed with negotiations in ranked order until a contract has been successfully negotiated; providing an effective date. (Contract Number 4600001726) (Julio Fanjul, ext. 3711)

Everglades Restoration

15. **2009-301** A Resolution of the Governing Board of the South Florida Water Management District approving Staff recommendations for releases of District canal, mineral and road reservations, releases of Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issuance of non-use commitments; providing an effective date. (Vinola Rada, ext. 6836)
16. **2009-302** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 10.01 acres, more or less, including a residence, together with a non-exclusive access easement containing 2.4 acres, more or less, Lee County, Corkscrew Regional Ecosystem Watershed Project; authorize the donation of said land interests to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, together with the District's interest in and privilege to mine and develop all phosphate, minerals, metals and petroleum in, on or under said 10.01 acres, for use by the Florida Fish and Wildlife Conservation Commission as an employee residence, subject to terms and conditions; and approve the waiver of the application fee; providing an effective date. (Tom Hanaway, ext. 6668)
17. **2009-303** A Resolution of the Governing Board of the South Florida Water Management District to approve granting a right of entry/license agreement to Palm Beach County over a portion of the West Palm Beach Field Station property containing 0.09 acres, more or less, located in Section 32, Township 43 South, Range 42 East, Palm Beach County, at no cost; providing an effective date. (Linda Schindeler, ext. 6838)
20. **2009-306** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 5.0 acres, more or less, for the Southern Corkscrew Regional Ecosystem Watershed Project ("Critical CREW Project"), in Lee County, in the amount of \$57,500 and all associated costs for which dedicated funds (Florida Forever Trust Fund) are budgeted; Approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition; providing an effective date. (Tom Hanaway, ext. 6668)

21. **2009-307** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from Florida Forever Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 5.0 acres, more or less, for the Southern Corkscrew Regional Ecosystem Watershed Project ("Critical CREW Project"), in Lee County, in the amount of \$57,500 and associated costs; providing an effective date. (Tom Hanaway, ext. 6668)
22. **2009-308** A Resolution of the Governing Board of the South Florida Water Management District to approve the acquisition of land interests containing 38.46 acres, more or less, for the Herbert Hoover Dike Rehabilitation Project, in Palm Beach County, from the Board of Trustees of the Internal Improvement Fund of the State of Florida, at no cost, except for associated costs and potential environmental remediation costs; approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition; providing an effective date. (Bruce Hall, ext. 6541)
23. **2009-309** A Resolution of the Governing Board of the South Florida Water Management District amending Resolution No. 2009-109 to provide Florida Forever Trust Funds as an alternative funding source, and not as a substitution for the ad valorem funding source originally approved for the acquisition; providing an effective date. (Bruce Hall, ext. 6541)
24. **2009-310** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from Florida Forever Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 2.63 acres, more or less, for the Herbert Hoover Dike Rehabilitation Project in Palm Beach County, in the amount of \$125,000, and associated costs; providing an effective date. (Bruce Hall, ext. 6541)
25. **2009-311** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Pre-Partnership Credit Agreement with the U.S. Army Corps of Engineers at no cost for the purpose of establishing eligibility to receive future credit for the costs of constructing a feature of the Taylor Creek/Nubbin Slough Storage and Treatment Area Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001749) (Paul Warner, ext. 4205)

Executive Office

62. Approval by the Governing Board of the South Florida Water Management District of a proclamation declaring April 5-11, 2009, as Contract Management Week at the South Florida Water Management District in recognition of Contract Managers.

26. **2009-312** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2008-2009 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, x6214)
27. **2009-313** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Kenneth Hyatt and any other appropriate or necessary parties, in the 9th Judicial Circuit Court in and for Osceola County or other appropriate forum for violations of Chapter 373 of the Florida Statutes and Chapter 40E-4 of the Florida Administrative Code for unauthorized filling and grading of uplands and wetlands on property located north of State Highway 60 and east of the Kissimmee River in Section 2, Township 31 South, Range 31 East, Osceola County, providing and effective date. (Doug MacLaughlin, Ext. 2153)
28. **2009-314** A Resolution of the Governing Board of the South Florida Water Management District authorizing a settlement agreement for \$189,000.00, plus \$57,090.00 for statutory attorneys fees, and \$27,693.00 for experts fees and costs, for which dedicated funds (Florida Forever Trust Fund) are budgeted and approve a budget transfer of Florida Forever Trust Funds from managerial reserves within the Biscayne Bay Coastal Wetlands CERP Project to S. CREW/Imperial River Floway CERP Project, for a condemnation action involving approximately 5 acres (Tract No. 005-028 Leonard and Clara Cain), within the designated boundaries of the Critical CREW (Southern Corkscrew Regional Ecosystem Watershed) project, styled South Florida Water Management District v. Leonard K. Cain and Clara Cain, et al., filed in the 20th Circuit Court for Lee County, Florida, Case No. 06-CA-004896; providing an effective date. (Ed Artau, Ext. 6431)
29. **2009-315** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Charles Rowan, Rowan Construction-PSI, Inc. and any other appropriate or necessary parties, in Palm Beach County Court or other appropriate forum, regarding the property located in Section 14, Township 45, Range 41, Palm Beach County, Florida, known as the Rowan Property. (Chris Pettit, Ext. 6423)

Corporate Resources

30. **2009-316**
A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to 3600000874 with Grosvenor Building Services, Inc., for janitorial services at Gun Club Road in an amount not-to-exceed \$655,000 of which \$295,000 is budgeted for FY09 and the remainder is subject to Governing Board budget approval for fiscal year 2010, providing an effective date. (Contract No: 3600000874-A02) Contact: Jon Gleason, ext. 6380

32. **2009-318** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 5 year 3 month lease with an additional one 5-year option with Teachers Insurance & Annuity of America for the Broward Service Center office lease, in an amount not to exceed \$458,581.56, of which \$28,202.37 of ad valorem funds is budgeted in FY09, and the remainder is subject to Governing Board approval of the FY10-FY14 budgets; providing an effective date. (Contract No. 4600001741) (Project Manager: Jon Gleason x6380).

Operations and Maintenance

33. **2009-319** A Resolution of the Governing Board of the South Florida Water Management District to authorize the establishment of a pre-qualified pool of emergency debris clearing contractors to provide the District with Emergency Debris Removal Services as needed for a three (3) year period from April 01, 2009 to March 31, 2012; providing an effective date; (RFQ 6000000200) (Betty Thayer, ext. 6011)
34. **2009-320** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001470 with AMJ Environmental, A Division of YSI Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001470-A02)(Francois Berger, ext. 4787)
35. **2009-321** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001006 with Rare Earth Sciences Incorporated dba HSA Engineers & Scientists, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001006-A02) (Francois Berger, ext. 4787)
36. **2009-322** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001008 with Sutron Corporation, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001008-A02) (Francois Berger, ext. 4787)

37. **2009-323** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001009 with Hydrogagge Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001009-A02) (Francois Berger, ext. 4787)
38. **2009-324** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001010 with Aquaflo Instrumentation Services Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001010-A02) (Francois Berger, ext. 4787)
39. **2009-325** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001011 with Star Controls Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001011-A02) (Francois Berger, ext. 4787)
40. **2009-326** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001012 with Professional Service Industries Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001012-A02) (Francois Berger, ext. 4787)
41. **2009-327** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001013 with Services of Professionals Incorporated, for the CR10 Installation Services, to increase the not-to-exceed spending authority from \$2,201,907 to \$5,558,000 available for all eight (8) work order contracts (46/1006, 46/1008, 46/1009, 46/1010, 46/1011, 46/1012, 46/1013 and 46/1470) and that no one contract will exceed \$1,000,000; of which ad valorem and dedicated funds in the amount of \$1,592,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.(4600001013-A02) (Francois Berger, ext. 4787)

42. Board Vote on Consent Agenda

Mr. Merriam requested the Board reconsider on the Regulatory Consent Agenda Item 10, Page 12; Heron Bay North, Application No. 070502-20. He requested the permit come back to the District staff for reconsideration.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to rescind Regulatory Consent Agenda Item 10, Page 12, Heron Bay North, Application No. 070502-20. Vote called. Voting yes: Eric Buermann, Charles Dauray, Shannon Estenoz, Pat Rooney, Melissa Meeker, Mike Collins, Jerry Montgomery. Motion passed.

Motion made by Shannon Estenoz, seconded by Melissa Meeker for staff to reconsider Regulatory Consent Agenda Item 10, Page 12, Heron Bay North, Application No. 070502-20. Vote called. Voting yes: Eric Buermann, Charles Dauray, Shannon Estenoz, Pat Rooney, Melissa Meeker. Not present for vote: Mike Collins, Jerry Montgomery. Motion passed.

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 62

Vote called. Voting yes: Michael Collins, Melissa Meeker, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery, Patrick Rooney. Motion passed.

Workshop Agenda

Everglades Restoration

43. Local Government Representatives - Introductions by Phil Flood, Director, Lower West Coast Service Center, and Garry Ritter, Director, Okeechobee Service Center (Ext. 7768 and 3017)

Gary Ritter, Director, Okeechobee Service Center introduced Russell Echols, Chair, Glades County Commission.

Commissioner Echols commented on the dredging in the Pearce Canal and the continued funding support for the navigation channel improvement project on Lake Okeechobee. He thanked staff for their hard work on these projects.

Phil Flood, Director, Lower West Coast Service Center introduced Vice Mayor David Lyons of LaBelle; Public Works Director, Michael Boyle of LaBelle; Judi Kennington-Korf, Hendry County Administrator; and Wendell Johnson, Clewiston City Manager.

Wendell Johnson, Clewiston City Manager, thanked the Board and District for partnering with the City of Clewiston. He reported on FDEP's stimulus program for the removal of septic tanks in Clewiston and funding for the extension the AirGlade airport.

Vice Mayor David Lyons, LaBelle, commented on LaBelle's city water main and requested the District's help in getting that project done.

Michael Boyle, Public Works Director, Labelle, reported on LaBelle's upcoming projects. He thanked the Board for past funding for projects in LaBelle.

Judi Kennington-Korf, Hendry County Administrator, welcomed the Board and public to Clewiston. Ms. Kennington-Korf commented on the EOC project and the partnerships between Hendry County and the SFWMD.

44. 'River of Grass' Project Update:

A) Introduction and Legislative Update - Carol Wehle, Executive Director (Ext. 2893)

B) Legal Update - Sheryl Wood, General Counsel, Office of Counsel (Ext. 6976)

C) Purchase and Sale Contract / Lease Agreement Update - Kirk Burns, Practice Expert, Office of Counsel (Ext. 6546)

Approve Schedule 4 (Best Management Practices Plan) to the Lease Agreement, Exhibit 19.e. to the Agreement for Sale and Purchase between United States Sugar Corporation, et al. and SFWMD dated December 23, 2008.

D) Financing and Budget Update - Paul Dumars, Chief Financial Officer, and Doug Bergstrom, Budget Director (Ext. 6212 and 6214)

E) 'River of Grass' Restoration Project Planning Process Update - Ken Ammon, Deputy Executive Director, Everglades Restoration (Ext. 4220)

F) Community Land Requests - Ruth Clements, Director, Land Acquisition (Ext. 6271)

G) Economic Transition Activities Update - Deena Reppen, Deputy Executive Director, Government & Public Affairs (Ext. 6232)

H) Next Steps - Carol Wehle, Executive Director (Ext. 2893)

Ms. Wehle presented a preliminary update on the River of Grass Project.

Sheryl Wood, General Counsel, reported on the legal updates: Administrative petitions, the Bond Validation Hearing and contract issues.

Mr. Montgomery commented on the beneficial interest affidavit and requested legal staff draft a letter to USSC and any corporation being part of the land acquisition regarding lawyers success and/or bonus fees for the sale and lease contract of USSC. He also requested information pertaining to the employees of the USSC transaction (i.e., how the formulation is calculated, how they are going to be paid and whether that is considered severance, retention, stock benefits, or other types of compensation).

There was Board discussion on attorney/client fees and the lawyers success and/or bonus fees for the sale and lease contract of USSC.

Kirk Burns, Practice Expert, Office of Counsel, presented information on the Best Management Practices (BMPs). He reported on the three BMP Regimes (phosphorus and nitrogen, sugar cane production, and citrus BMPs.)

Mr. Burns reported on the existing legal requirements for BMPs and the current BMP proposal. Mr. Burns then reported on a multi-tier test for BMPs to account for variability.

Mr. Burns presented staff's recommendation. Motion was made by Shannon Estenoz and seconded by Melissa Meeker to approve the recommendation.

There was further Board discussion on applying this BMP schedule only to the land under the lease, compliance issues, and additional language added to the motion. Ms. Estenoz then amended the motion to approve staff's recommendation and direct staff to add language to the current amendment (Schedule 4) clarifying that these provisions do not apply to land not covered by this contract (including swapping or trading of land).

There was further Board discussion on long-term implications, compliance issues with small farms and the BMP schedule.

Public Comment: Rick Roth, Roth Farms, Inc., commented on the new BMP schedules, basin-wide compliance and said this will drive vegetables growers off USSC land due to the new BMP schedule.

Public Comment: Barbara Miedema, Sugar Can Growers Cooperative, commented on water runoff, rotating crops and the difference of BMPs with different crops.

Public Comment: Jacquie Weisblum, Audubon of Florida, commented on the contract and stated these BMPs cannot be imposed on local land owners.

Shannon Estenoz provided comment on addressing the BMP issues when they have a purchase footprint available. She withdrew her motion.

Ms. Wood stated USSC will accept extending the time period until closing of the contract.

Mr. Burns presented staff's motion for the 3rd amendment:

Motion made by Shannon Estenoz, seconded by Jerry Montgomery to approve the following: to authorize entering into a Third Amendment to the Purchase and Sale Agreement with U.S. Sugar Corporation, dated December 23, 2008, that provides that Best Management Practices and Monitoring (an Exhibit to the Lease which is part of the Agreement) will be mutually agreed to by the parties prior to Closing and that the Inspection Period Termination Date is extended with respect to such matters until such mutual agreement.

Vote called, Voting yes: Jerry Montgomery, Charles Dauray, Michael Collins, Melissa Meeker, Eric Buermann, Shannon Estenoz, Patrick Rooney. Absent: Paul Huck. Motion passed.

Paul Dumars, Chief Financial Officer, presented information on the global market and the long-term interest rates.

Doug Bergstrom, Director, Budget Division, reported on the tax reform legislation.

Ken Ammon, Deputy Executive Director, Everglades Restoration, reported on the public planning process for the River of Grass land acquisition. He reported on the River of Grass WRAC Issues Workshop which were held on February 19th and March 4th, 2009. Mr. Ammon then reported on the vision statement and the scope for the phase/planning process. Mr. Ammon introduced Dick Petigrew.

Dick Petigrew, Facilitator for the River of Grass meetings, thanked the Board and commended staff working on this project. Mr. Petigrew commented on the continued participation of key stakeholders.

Ruth Clements, Director, Land Acquisition and Management Department, reported on the lease terms and stated up to 3000 acres of land are transferable.

Deena Reppen, Deputy Executive Director, Government and Public Affairs, reported on the economic transition and State funding. Ms. Reppen reported on OTTED activities, the District activities, and community project funding in Palm Beach, Glades and Hendry County.

Ms. Reppen reported on the economic development consultant for Hendry County. There was Board discussion regarding the consultant covering all the Glades communities and reporting responsibilities.

Ms. Wehle said an economic development proposal will be brought back to the Board in April.

Ms. Wehle then reported on the continued state legislation.

Public Comment: Lisa Interlandi, Everglades Coalition, supports the River of Grass project and commented on economic development in the Glades community.

Public Comment: Thomas Valent, Everglades Foundation, commented on timing process for the River of Grass project. He commended staff for their hard work on this project.

Mr. Collins expressed concern for the process and commented on legislation for water management, timelines for funding the project and the continuation of other projects. He requested this be addressed at the April Board meeting.

There was further Board discussion on the affordability of this contract and discussing these issues while the legislation is in session.

Ms. Wehle confirmed that financial issues will be addressed in April.

45. Everglades Restoration Update - Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration (Ext. 6998)

This item was deferred.

46. Water Conditions Report - Susan Sylvester, Department Director, Operations & Control, Operations & Maintenance (Ext. 6152)

Susan Sylvester, Department Director, Operations & Maintenance reported on the drought conditions in the area.

47. **Ecological Conditions Report** - Dean Powell, Director, Watershed Management Department, Water Resources (Ext. 6787)

Dean Powell, Director, Watershed Management Department, presented information on the snail kites nesting in the Kissimmee Basin, Kissimmee River water recession, Lake Okeechobee submerged aquatic vegetation, and the salinity levels in the estuaries, and python removals in Everglades National Park.

Executive Office

48. **Overview of Chapter 373, Florida Statutes - Public Procurement (Continued)** - Sheryl G. Wood, General Counsel; Carlyn Kowalsky, Managing Attorney; and Cathy Linton, Sr. Supv Attorney; Office of Counsel (Ext. 6976, 6240 and 6322)

This item was deferred.

Discussion Agenda

Water Resources

49. Approve Water Use Permit Modification and Renewal Application 070629-43 for the Ibis Golf and Country Club irrigation permit for the existing project with a 20-year duration (Palm Beach County) (Marjorie Craig, ext 2987)

No presentation provided.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 49

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Michael Collins, Charles Dauray, Jerry Montgomery. Abstained: Patrick Rooney. Motion passed.

Everglades Restoration

18. **2009-304** A Resolution of the Governing Board of the South Florida Water Management District authorizing eminent domain proceedings for the acquisition of certain lands consisting of 7.66 acres, more or less, in Miami-Dade County, Florida, which are part of the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project for which dedicated (Florida Forever Trust Fund) funds are available in managerial reserves; providing an effective date. (Bob Schaeffer, ext. 2985)

Ruth Clements, Director, Land Acquisition and Management Department, presented information on this agenda item.

Ms. Estenoz pulled Agenda Items 18 and 19 for discussion and commented on condemnation of the flow way, a pending Environmental Resource Permit (ERP) application and the changing footprint of a CERP alternative.

There was Board discussion of meeting CERP goals, the original acquisition footprint, and the possibility of an ERP challenge.

Mr. Ammon provided background information on the land acquisition, the conditions of the wetlands, and funding for land acquisitions.

Ms. Wehle recommended bringing Agenda Items 18 and 19 back to the Board in April, with CERP staff discussions of the site (maximizing the benefit while minimizing the footprint).

Public comment: Tom Condon, citizen, commented on Agenda Item 18 & 19 supported Ms. Estenoz comments. Mr. Condon commented that this property is the only undeveloped land in Cutler Bay. He requested this agenda item be deferred and have this decision be discussed in southern Dade County for resident input.

Public Comment: Laura Reynolds, Tropical Audubon Society, commented on the ecological benefits in this area.

Public Comment: Dawn Shirreffs, Clean Water Action, commented on the FPL site, and stated the excavation activities will disrupt the wetlands.

Public Comment: Jacquie Weisblum, Audubon of Florida, supports Ms. Estenoz comments regarding this Agenda Item. She also commented on wetland mitigations.

Public Comment: Edwardo Varona, citizen of Cutler Bay, is not supportive of the current configuration.

Public Comment: Kahlil Kettering, National Parks Conservation Association, commented on having this discussion in south Dade. Wetlands are valuable especially in Dade County.

Mr. Collins made a motion to move staff's recommendation. There was no second.

Ms. Wehle explained the Board will need to make a decision in April on what Biscayne Bay Coastal Wetlands should look like. After that decision, ERP staff can meet with the applicant to work on the minimization of the property.

This agenda item along with Agenda Item 19 will be deferred until April.

- 19. 2009-305** A Resolution of the Governing Board of the South Florida Water Management District advising the Department of Environmental Protection of the proposed acquisition of land interests containing 7.66 acres, more or less, in Miami-Dade County, Florida, which are part of the Biscayne Bay Coastal Wetlands CERP Project, and requesting the release of funds from Florida Forever Trust Fund for acquisition of such land interests; providing an effective date. (Bob Schaeffer, ext. 2985)

Ruth Clements, Director, Land Acquisition and Management Department, presented information on this agenda item.

Ms. Wehle recommended bringing Agenda Items 18 and 19 back to the Board in April.

Public comment: Tom Condon, citizen, commented on Agenda Item 18 & 19 supported Ms. Estenoz comments. Mr. Condon commented that this property is the only undeveloped land in Cutler Bay. He requested this agenda item be deferred and have this decision be taken in southern Dade county for resident input.

Public Comment: Eduardo Varona, citizen of Cutler Bay, is not supportive of the current configuration.

This agenda item along with Agenda Item 18 will be deferred until April.

- 50. 2009-328** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an 861-day contract with Harry Pepper & Associates, Inc., the lowest responsive and responsible bidder, for construction of the Compartment C Buildout Stormwater Treatment Area civil works project in an amount not to exceed \$47,541,973 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$15,300,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001698) (Jeff Kivett, ext. 4018)

No presentation was provided.

Public Comment: Andy Powell, Wright Construction, commented on the bid process and the SBE participation and keeping jobs within the community.

Public Comment: David Pepper, Harry Pepper & Associates, Inc., thanked the Board for awarding his company the job.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 50

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Not present: Patrick Rooney. Motion passed.

- 51. 2009-329** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 4-year contract with Florida Power & Light Company (FPL) for construction of electrical power distribution facilities needed to serve the Compartment C Buildout Stormwater Treatment Area in an amount not to exceed \$1,000,000 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) are budgeted; providing an effective date. (Contract Number 46000001714) (Jeff Kivett, ext. 4018)

No presentation provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 51

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery, Patrick Rooney. Motion passed.

- 52. 2009-330** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an 850-day contract with Dickerson Florida, Inc., the lowest responsive and responsible bidder, for construction of the Lakeside Ranch Stormwater Treatment Area North project in an amount not to exceed \$15,475,000 of which dedicated funds (Lake Okeechobee Trust Fund and Save Our Everglades Trust Fund) in the amount of \$3,500,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001746) (Jeff Kivett, ext. 4018)

No presentation provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 52

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery, Patrick Rooney. Motion passed.

- 61. 2009-331** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Contract Number C89-0189 with the City of Clewiston to revise the termination language and extend the term by thirty-eight (38) years, from September 8, 2012 to September 8, 2050, at no additional cost to the District; authorize the Chairman, or his delegatee, to execute a letter on behalf of the District to the Florida Department of Environmental Protection in support of Clewiston's grant application for the Florida National Scenic Trail Clewiston Trailhead Project; providing an effective date. (Contract C89-0189-A03)(Ruth Clements, ext. 6271)

Ms. Clements presented information on this agenda item.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 61

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Eric Buermann, Michael Collins, Charles Dauray, Shannon Estenoz. Not present: Patrick Rooney. Motion passed.

- 53. Public Comment**

No public comment.

Public Hearing

Water Resources

54. Continuation of Public Hearing

Adopt amendments to Rules 40E-2.051, 40E-2.091, 40E-2.331, 40E-24.011, 40E-24.101, 40E-24.201, 40E-24.301, 40E-24.401, 40E-20.091, 40E-20.331, F.A.C., and the Basis of Review for Water Use Applications within the South Florida Water Management District, and new Rules 40E-2.061, and 40E-24.501, F.A.C., to: 1) implement District-wide mandatory year-round landscape irrigation conservation measures; 2) create a general permit by rule for outdoor residential consumptive use of water and to allow modification of such a permit that does not allow more cumulative days and time to conduct landscape irrigation than those provided under Chapter 40E-24, F.A.C.; and 3) amend the water conservation measures in the Basis of Review to be consistent with the landscape irrigation conservation measures set forth in Chapter 40E-24, F.A.C. (Terrie Bates, Ext. 6952)

Continue Public Hearing

Chair Buermann opened the Public Hearing.

Chip Merriam, Deputy Executive Director, Water Resources, presented information on this agenda item.

Public Comment: Randy Brown, Southeast Florida Utility Council, commented on continue working with staff on year-round irrigation conservation measures.

Public Comment: Jacquie Weisblum, Audubon, supports 2 days a week watering restrictions.

Public Comment: Lisa Interlandi, Everglades Law Center, supports 2 days a week watering restrictions.

Chair Buermann continued the Public Hearing.

Staff Reports

55. General Counsel Report - Sheryl Wood

Ms. Wood provided information on the legal service process for outside counsel and the Request for Information (RFI) process.

There was discussion on outside counsel for the Governing Board. Following the discussion points, Ms. Wood stated she will bring back recommendations to the Governing Board.

56. Executive Director's Report - Carol Wehle

Ms. Wehle commented that a report will be sent to the Board members regarding the reduction of District travel, training and conferences.

57. Board Comment

Selection of Governing Board Chair and Vice Chair

Chair Buermann provided an annual evaluation of Carol Wehle, Executive Director, and John Williams, Inspector General, with no salary adjustment.

Shannon Estenoz nominated Chair Buermann to continue being Chair of the South Florida Water Management District and for Mr. Collins to become Vice Chair.

Mr. Collins declined the Vice Chair position and recommended for nomination Mr. Montgomery as Vice Chair.

Ms. Estenoz accepted Mr. Collins amendment.

Motion made by Shannon Estenoz, seconded by Patrick Rooney, to nominate Eric Buermann as Chair of the SFWMD Board and Jerry Montgomery as Vice Chair of the SFWMD Board. Vote called. Voting yes. Eric Buermann, Shannon Estenoz, Michael Collins, Charles Dauray, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Motion passed.

Adjournment

58. Adjourn

Chair Buermann adjourned the meeting at 4:45 pm.

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD